UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/798,545
Filing Date: March 11, 2004
Appellant(s): SRIVSTAVA, ALOK

_____
Gordon E. Nelson
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 2 November 2010 appealing from the Office action

mailed 10 March 2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

a.   Claims 1-28 are pending.

b.   Claims 1-28 have been rejected.

c.   Claims 1-28 are on appeal.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to

the appellant's brief.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be
> patented and the prior art are such that the subject matter as a whole would have been obvious
> at the time the invention was made to a person having ordinary skill in the art to which said
> subject matter pertains. Patentability shall not be negatived by the manner in which the
> invention was made.

2.   **Claims 1, 3, 5, 7, 9, 11 13, 15, 17, 19, 21, 23, 25 and 27** are rejected under 35

U.S.C. 103(a) as being unpatentable over Levy (U.S. Patent No. 5,995,961, hereinafter referred

to as LEVY), filed on 7 November 1996, and issued on 30 November 1999, in view of Wynblatt et

al (U.S. Patent No. 6,546,421, hereinafter referred to as WYNBLATT), filed on 30 June 1999, and

issued on 8 April 2003.

3.   **As per independent claim 1, 5, 9, 11, 15, 17, 19, 23 and 25**, LEVY, in combination

with WYNBLATT, discloses:

> A method <u>performed in a search server</u> of initiating a connection via a network
> for a streaming data item between a client that contains the streaming data
> item and a streaming data item server for the streaming data item, the client

and the streaming data item server <u>and the client and the search server</u> being accessible to each other via the network {See WYNBLATT, Figure 2}<u>, the connection being independent of the search server,</u> and the method comprising the steps:

receiving a specification of the streaming data item from the client via the network {See LEVY, C4:L25-34, wherein this reads over "the user formulates a query"};

using the specification to make a query on a database system that is accessible to the search server, the query returning a first identifier that identifies the streaming data item {See LEVY, C4:L25-34, wherein this reads over "[g]iven a query, Plan Generator accesses source descriptions in which the contents and capabilities of the available information sources are available"}; and

providing the first identifier and a second identifier to the streaming data item server that contains the streaming data item, the second identifier identifying the client {See WYNBLATT, Figure 3; and C4:L55-61, wherein this reads over "after the data source addresses are downloaded, the client program uses such addresses to send HTTP requests to download descriptive pages from the descriptive servers"} and the first identifier and the second identifier <u>being</u> used by the streaming data item server to establish the connection <u>between the client and the streaming data item</u> {See WYNBLATT, Figure 3; and C4:L55-61, wherein this reads over "after the data source addresses are downloaded, the client program uses such addresses to send HTTP requests to download descriptive pages from the descriptive servers"}.

While LEVY may fail to expressly disclose an invention wherein the connection does not run through the search server, WYNBLATT discloses a system wherein a client computer requests the URLS of data streams of the data stream servers and descriptive pages of the descriptive servers. After the data source addresses are downloaded, the client program prepares HTTP requests to download the corresponding descriptive pages from the descriptive servers such that a Value Function may be applied to select the most preferred value stream. Once the most preferred data stream has been selected based on the computed Value Function, the client program initiates a connection to the corresponding data stream server. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above invention suggested by LEVY by combining it with the invention disclosed by WYNBLATT.

One of ordinary skill in the art would have been motivated to do this modification so that once the search server determines the location of the streaming data item, the client may make establish a direct connection with the data host.

4.   **As per dependent claims 3, 7, 13, 21 and 27**, LEVY, in combination with WYNBLATT, discloses:

The method of initiating a connection set forth in claim 1 wherein:

the database system is an object relational database system {See LEVY, Figure 1, Element 140} that includes a table containing an object that represents the streaming data item, an open method for the object is defined in the database system, the open method returning the first identifier {See LEVY, C4:L25-34, wherein this reads over "[g]iven a query, Plan Generator accesses source descriptions in which the contents and capabilities of the available information sources are available"}; and

the database system responds to the query by executing the open method and returning the first identifier {See LEVY, C4:L25-34, wherein this reads over "[g]iven a query, Plan Generator accesses source descriptions in which the contents and capabilities of the available information sources are available" and "[b]ased on the descriptions, Plan Generator determines which information sources are relevant for the given query"}.

Furthermore, it would be inherent to the claimed invention that an object relational database system would include a table of objects.

5.   **Claims 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26 and 28** are rejected under 35 U.S.C. 103(a) as being unpatentable over LEVY, in view of WYNBLATT, and in further view of Rodriquez (USPGPUB No. 2004/0059720, hereinafter referred to as RODRIGUEZ), filed on 23 September 2002, and published on 25 March 2004, and in further view of Official Notice.

6.   **As per dependent claims 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26 and 28**, LEVY, in combination with WYNBLATT and Official Notice, discloses:

The method of initiating a connection set forth in claim 1 wherein:

the client, the streaming data item server, and the search server communicate via the network using the HTTP protocol {See RODRIGUEZ, [0002], wherein this reads over "Web pages or domain addresses on the Internet or on any other public or private global computer network"};

the first identifier is a URL for the streaming data item {See RODRIGUEZ, [0042], wherein this reads over "[t]he search system is an application that allows users to enter

predetermined search keywords and provides a list of results containing site information
and media elements pertaining to each Web site"}; and

the second identifier is a current IP address for the client.

It would have been obvious to one of ordinary skill in the art at the time the invention

was created to have an identifier be an IP address for the client since the IP/network address is

necessary in the return of the search results.

(10) Response to Argument

a.   Rejection of Claim 1 under 35 U.S.C. 103(a)

Appellant asserts the argument that neither Levy nor Wynblatt discloses the method step

which "requires that the search server (not the client) provides the first identifier (the id for the

streaming data item) and the second identifier (the ID for the client) to the streaming data item

server." See Appeal Brief, page 18. The Examiner respectfully disagrees.

In response to applicant's argument that the references fail to show certain features of

applicant's invention, it is noted that the features upon which applicant relies (i.e., the search

server providing the first identifier and the second identifier to the streaming data item server)

are not recited in the rejected claim(s). Although the claims are interpreted in light of the

specification, limitations from the specification are not read into the claims. See *In re Van Geuns*,

988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The Examiner notes that the instant recitation

does not explicitly recite a feature wherein the search server directly provides the first identifier

and the second identifier to the streaming data item server. Rather the claim expressly recites

that the first identifier and a second identifier are provided to the streaming data item server

such that a connection between the client and the streaming data item may be established.

Accordingly, it would have been obvious to one of ordinary skill in the art that the scope of the

claim could encompass an invention wherein the <u>client</u> may receive the first and second

identifiers such that said first and second identifiers are provided to the streaming data item

server by the client. Additionally, the Examiner notes the preamble of the instant claim which recites the feature of "the connection being independent of the search server." Wherein the method is directed to establishing a connection (for a streaming a data item) between a client and a streaming data item server, and said connection is to be independent of the search server, the Examiner notes that the passing of the first and second identifiers by the search server to the streaming data item server would result in features which would contradict the inventive structure provided in the preamble. That is, wherein a user queries a search server for a streaming data item, and the search server passes the identifiers directly to the streaming data item server, the establishment of the connection would be dependent (and not independent) upon the search server as every connection would necessarily pass through the search server.

Additionally, it is noted that it would have been obvious to one of ordinary skill in the art that the combination of Levy and Wynblatt would read upon the claimed invention as recited. That is, Wynblatt discloses an invention wherein a client may establish a connection with the streaming server, as affirmed by Appellant. See Appeal Brief, page 17. The Examiner notes that the establishment of a direct connection between the client and the streaming server would read upon the recited inventive structure of "the connection being independent of the search server." Wherein the client provides the URL for the streaming data and the client's own ID to the server, it would have been obvious to one of ordinary skill in the art that said disclosure by Wynblatt would read upon the recited feature of "providing the first identifier and a second identifier to the streaming data item server that contains the streaming data item... being used by the streaming data item server to establish the connection between the client and the streaming data item." That is, wherein Wynblatt discloses a system wherein data source addresses acquired by a client (i.e. a first identifier) are used to send HTTP requests to content server (i.e. a streaming data item server), it would have been obvious to one of ordinary skill in the art that the combination of Levy and Wynblatt would accurately read upon the instant invention as recited. Inherent

within the HTTP requests are client identifiers such as an IP address for the client which are utilized by content server to establish a connection for transmission of content data.

The Examiner notes that Appellant asserts arguments which fail to have the proper basis within the recited claims as the instant claims fail to explicitly or implicitly express a system wherein the streaming data item server receives identifiers directly from a search server and actively establishes the connection to the client. Rather, the claimed invention would lend itself to a system wherein a client may provide the identifiers such that client may actively create a connection to the streaming data item server whereby the streaming data item server utilizes the first identifier to locate the data item and the second identifier to stream the data item to proper IP address of the client.

Accordingly, for the aforementioned reasons above, the Examiner maintains the rejection of claim 1 under 35 U.S.C. 103.

b.   Rejection of Claims 5 and 19 under 35 U.S.C. 103(a)

With regards to claims 5 and 19, Appellant relies upon the assertions made with regards to claim 1. See Appeal Brief, page 19. Accordingly, the Examiner references the aforementioned rebuttal provided in subparagraph (a) above.

c.   Rejection of Claim 9 under 35 U.S.C. 103(a)

With regards to claim 9, Appellant relies upon the assertions made with regards to claim 1. See Appeal Brief, page 19. Accordingly, the Examiner references the aforementioned rebuttal provided in subparagraph (a) above.

d.   Rejection of Claims 11, 17, and 25 under 35 U.S.C. 103(a)

With regards to claims 11, 17, and 25, Appellant relies upon the assertions made with regards to claim 1. See Appeal Brief, page 19. Accordingly, the Examiner references the aforementioned rebuttal provided in subparagraph (a) above.

e.   Rejection of Claims 3, 7, 13, 21, and 27 under 35 U.S.C. 103(a)

Appellant asserts the argument that there is not basis for the rejection of the claim
limitations of "an open method" for the object. See Appeal Brief, page 21. The Examiner
respectfully disagrees. It is noted that for the purposes of examination, "an open method" has
been construed simply mean a method. That is, wherein Appellant has failed to further limit
what features are to be provided within an "open" method, the broadest reasonable
interpretation of the term has been applied by the Examiner.

Additionally, Appellant asserts the argument that "there is no indication whatever that
the plan generator is an object relational database system which the meaning of the term object
relational as it is defined at page 9, lines 11-25 of Applicant's Specification." See Appeal Brief,
page 20. The Examiner respectfully disagrees. It is noted that the cited portions of the
Specification do not "define" an object relational database system, but rather describe an instant
"object-relational data (ORD) class." In response to applicant's argument that the references fail
to show certain features of applicant's invention, it is noted that the features upon which
applicant relies (i.e., features relevant to an object relational database system) are not recited in
the rejected claim(s). Although the claims are interpreted in light of the specification, limitations
from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26
USPQ2d 1057 (Fed. Cir. 1993).

Accordingly, for the aforementioned reasons above, the Examiner maintains the rejection
of claims 3, 7, 13, 21, and 27 under 35 U.S.C. 103.

f.   Rejection of Claims 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, and 28 under 35 U.S.C.
103(a)

Appellant asserts the argument that Rodriguez is not available as a reference against
Applicant's claims. The Examiner agrees. However, the Examiner notes the clerical error
including the Rodriguez reference. Rather, the Examiner relies upon the asserted Official Notice.
Furthermore, for purposes of clarification, the Examiner takes Official Notice that it would have

been obvious and widely-known to one of ordinary skill in the art at the time the invention was

made that the network use a HTTP protocol and an identifier contain a URL for the streaming

data. Additionally, said obviousness is backed by the disclosure within Wynblatt which discloses

a system wherein data source addresses acquired by a client (i.e. a first identifier) are used to

send HTTP requests to content server (i.e. a streaming data item server) wherein the requests

may be presented as URLs of the data streams. See Wynblatt, column 4, lines 26-46 and 55-59.

Accordingly, for the aforementioned reasons above, the Examiner maintains the rejection

of claims 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, and 28 under 35 U.S.C. 103.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals

and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Paul Kim/

Paul Kim

Examiner, Art Unit 2169

Conferees:

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